

# Burden of Proof

## Special Exception Application

**1236 Walter Street SE**

**To:**                **The Office of Zoning**  
Government of the District of Columbia  
Suite 210 South  
441 4<sup>th</sup> Street, NW  
Washington DC 20001

**From:**           **Michael Fowler**  
Agent/Architect  
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**Date:**             November 10, 2022

**Subject:**        **BZA Application, Meyers Residence**  
1236 Walter Street SE (Square 1015, Lot 0226)

Amanda and Aaron Meyers, owners of 1236 Walter Street SE, hereby apply for a special exception pursuant to Subtitle X, Chapter 9, to build a two-story rear addition. The aspects of the proposed project that fall outside the current zoning regulations are as follows:

*Application of Amanda and Aaron Meyers, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the rear yard extension requirements of Subtitle E § 205.4, and the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story rear addition to an existing attached single-family dwelling in the RF-1 Zone at premise 1236 Walter Street SE (Square 1015, Lot 0226).*

### **I. Summary:**

This special exception qualifies under ZR-16 Subtitle E, Chapter 5201 and Subtitle X, Chapter 9, because the lot occupancy does not exceed 70%, and the proposed addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property.

**11-E DCMR § 205.4:** The existing structure has a rear yard extension of 0.0', which will increase to 20.0' with the proposed addition.

**11-E DCMR § 304.1:** The existing lot coverage of 937.0 SF (66.7%) will increase to 942.5 SF (67.1%) with the proposed addition.

### **II. Qualification of Special Exception**

#### **11-E DCMR § 5201 Special Exception Relief from Certain Required Development Standards**

By satisfying the requirements of E-5201.1, and E-5201.4 through E-5201.6, the application also meets the general special exception requirements of X-901.2, see below.

§ 5201.4 An application for special exception relief under this section shall demonstrate that the proposed addition, new building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically

- a. *The light and air available to neighboring properties shall not be unduly affected;*

**1234 Walter Street SE**

1234 Walter Street SE lies to the west of the property at 1236 Walter Street SE. The rear of 1234 Walter Street SE currently extends 12'-0" back from the rear wall of 1236 Walter Street SE. With the proposed two-story rear addition, the rear wall of 1236 Walter Street SE will extend 8'-0" back from 1234 Walter Street SE. There is an existing open court on the property of 1234 Walter Street SE separating it from the proposed addition. The existing one-story garage at the rear of 1236 Walter Street SE will be removed. For these reasons, the light and air available to 1234 Walter Street SE will not be unduly affected.

**1238 Walter Street SE**

1238 Walter Street SE lies to the east of the property at 1236 Walter Street SE. The rear of 1238 Walter Street SE currently aligns with the rear wall of 1236 Walter Street SE. The proposed two-story rear addition will extend 20'-0" back from 1238 Walter Street SE, but the other side is open to a public alley. The existing one-story garage at the rear of 1236 Walter Street SE will be removed. For these reasons, the light and air available to 1238 Walter Street SE will not be unduly affected.

**Neighbors across the alley to the North**

The properties to the north are separated by the rear yards and a 15' public alley. Additionally, the one-story garage in the rear yard of 1236 Walter Street SE will be removed. For these reasons, the light and air available to the properties across the alley to the north will not be unduly affected.

- b. *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.*

**1234 Walter Street SE**

The proposed face-on line wall of the addition will be solid with no window or door openings facing 1234 Walter Street SE. The existing one-story garage with a window and door facing south, back towards the residences, will be removed. A 7'-0" wood privacy fence will separate the properties. Overall, the addition will not unduly compromise the privacy of use and enjoyment of the 1234 Walter Street SE.

**1238 Walter Street SE**

The proposed face-on line wall of the addition will be solid with no window or door openings facing 1238 Walter Street SE. The existing one-story garage with a window and door facing south, back towards the residences, will be removed. A 7'-0" wood privacy fence will separate the properties. Overall, the addition will not unduly compromise the privacy of use and enjoyment of the 1238 Walter Street SE.

**Neighbors across the alley to the North**

The properties to the north are separated by the rear yards and a 15' public alley. A 7'-0" wood privacy fence with a roll-up door to access parking will also separate the rear yard of 1236 Walter Street SE from the alley. Overall, the addition will not unduly compromise the privacy of use and enjoyment of the neighbors across the alley to the north.

- c. *The proposed addition or accessory structure, together with the original building, or the new principal building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage;*

The proposed addition will not be visible from a public street. The existing square is extremely dense with a variety of existing structures and additions. The proposed addition is consistent in size and material construction of the existing adjacent structures. Because of the presence of other nearby structures and additions, the proposed two-story rear addition will be in harmony with the intent of the regulations.

- d. *In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plan, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways.*

Architectural plans and photographs have been submitted with the application.

### **11-E DCRM § 206.3 Roof Top or Upper Floor Additions**

*Any new building, or alteration or addition to an existing building, including a roof structure or penthouse (the "proposed construction") at the time of application, shall not significantly interfere with the operation of a solar energy system on an abutting property, unless agreed to by the owner of the solar energy system, subject to the following:*

- (a) *"Time of application" shall mean the earlier of either:*
- (1) *The Department of Consumer and Regulatory Affairs officially accepts as complete the application for the building permit for the proposed construction; or*
  - (2) *The Office of Zoning officially accepts as complete an application for zoning relief for the proposed construction;*
- (b) *"Solar energy system" shall mean a solar energy system of at least 2kW in size that, at the time of application, is either:*
- (1) *Legally permitted, installed, and operating; or*
  - (2) *Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;*
- (c) *"Significantly interfere" shall mean that the proposed construction increases the shading incident on the solar energy system by more than five percent (5%) as determined by a comparative solar shading study acceptable to the Zoning Administrator; and*
- (d) *All applications for the proposed construction, whether for a building permit or for zoning relief, must include one of the following:*
- (1) *An affidavit by the applicant stating that there is no solar energy system on an abutting property;*
  - (2) *A comparative solar shading study which meets the minimum standard established by the Zoning Administrator for the purpose of determining the increased annual incident solar shading by percent; or*
  - (3) *A written agreement executed by the owner of the impacted solar energy system accepting the interference with the solar energy system.*

There is no solar energy system on an abutting property, and the proposed addition does not extend above any adjacent roof.

## 11-X DCMR § 901 Special Exception Review Standards

§ 901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgement of the Board of Zoning Adjustment, the special exceptions:

- a. *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The new two-story rear addition will be constructed of similar materials to other adjacent and nearby rear additions. Because of the presence of the other nearby structures, the proposed addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

- b. *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;*

As described more fully above, the addition will not impact the light and air or privacy of the neighboring properties. The addition will also not adversely affect the use of neighboring properties as residential because the applicant is not proposing a change from the existing use as a single-family dwelling.

- c. *Will meet such special conditions as may be specified in this title.*

## 11-X DCMR § 902 Application Requirements

*An application for a special exception shall meet the requirements of Subtitle Y § 300.*

Along with this application, we have included the following items:

- a. Photos of the existing house and surroundings;
- b. Plan and elevation drawings of proposed addition, including a site plan showing the relationship of the proposed addition to adjacent buildings; and
- c. Official Plat from the DC Office of the Surveyor.

If you require any further clarification or have any questions regarding the application, we are available at any time to discuss them with you.

Thank you,

*Michael Fowler*

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